

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

IN RE:

MILLENNIUM MULTIPLE
EMPLOYER WELFARE BENEFIT
PLAN,

DEBTOR.

FRED WESTFALL; et al.,

Plaintiffs,

v.

JONATHAN COCKS; et al.,

Defendants.

CHAPTER 11

CASE NO. 10-13528
(Chapter 11)

(PENDING IN THE UNITED STATES
BANKRUPTCY COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA)

ADVERSARY NO. 10-_____

NOTICE OF REMOVAL

Pursuant to Fed. R. Bankr. P. 9027 and 28 U.S.C. § 1452, Millennium Multiple Employer Welfare Benefit Plan (“**Millennium**” or the “Debtor”), the debtor in the above-styled Chapter 11 bankruptcy case (the “**Bankruptcy Case**”), hereby files this Notice of Removal of Cause No. 3:08-CV-0996-D, from the 95th Judicial District Court of Dallas County, Texas, (the “**State Court**”) to this Court, and states:

1. On June 9, 2010 (the “**Petition Date**”), Millennium filed a voluntary petition for relief under Chapter 11, Title 11, United States Code in the United States Bankruptcy Court for the Western District of Oklahoma (the “**Bankruptcy Court**”). Prior to the Petition Date, on or about May 2, 2008, (i) Fred Westfall; (ii) Timothy Westfall; (iii) Patricia Westfall Gonzalez; (iv) Westfall Constructors, Ltd.; (v) Dennis Scheumann; (vi) Sylvia Scheumann; (vii) Mid-States

Tool & Machine, Inc.; (viii) Edward C. Wade, M.D.; (ix) Edward C. Wade, M.D., P.A.; (x) Marvin J. Mobley; (xi) Linda Dianne Mobley; (xii) Aberty Corporation; (xiii) Kathy Pietro; (xiv) Robert Marinelli; (xv) M&P Development, LLP; (xvi) Carl Franklin; (xvii) Edith L. Franklin; (xviii) International Falcon Associates, Inc.; (xix) Dr. Jordan F. Worth; (xx) Midtown Physicians, LLP; (xxi) Michael Goldberg, M.D.; (xxii) Edward Parelhoff, M.D.; (xxiii) Eye Consultants of Northern Virginia, P.C.; (xxiv) Ronald Anderson; (xxv) Deborah Anderson; (xxvi) Supplier Link Services, Inc.; (xxvii) Greg and Karen Lewis; (xxviii) Lewco Integrated Technical Services, Inc.; (xxix) Paul and Lucy Janoush; (xxx) Joe and Dorothy Janoush; (xxxi) John and Beverly Janoush; (xxxii) Jantran, Inc.; (xxxiii) Tim and Tracy Johnston; and (xxxiv) Chapter II, Inc. (the “**Plaintiffs**”) initiated a lawsuit against, *inter alia*, Millennium (the “**Lawsuit**”), styled *Fred Westfall, et al. v. Jonathan Cocks, et al.*, Cause No. 3:08-cv-0996-D, in the State Court.

2. Cross-claims have been asserted against the Debtor in the Lawsuit by the Plaintiffs and by (i) American General Life Insurance Company; (ii) United States Life Insurance Company in the City of New York; and (iii) Penn Mutual Life Insurance Company.

3. This Court has jurisdiction over the Lawsuit pursuant to 28 U.S.C. § 1334. The Lawsuit may be therefore removed to this Court pursuant to 28 U.S.C. §1452. The Lawsuit and/or issues raised therein are core matters pursuant to, *inter alia*, 28 U.S.C. §157(b)(2)(A) (B), (C) and/or (O). Upon removal, the Debtor does not consent to entry of final orders or judgments by the Bankruptcy Court to the extent that the Lawsuit and/or claims raised therein are not core matters. This is a matter subject to referral to the United States Bankruptcy Court.

4. The Debtor is entitled to remove this action because the action concerns the administration of the estate. In addition, the Debtor believes that the Plaintiffs assert claims

against the Debtor which should be adjudicated by the Bankruptcy Court as part of the claims process in its Bankruptcy Case. The Debtor intends to seek transfer of the removed Lawsuit to the Bankruptcy Court to obtain that result.

5. Copies of the active petition, answers and cross-claims on file with the State Court, along with a copy of the State Court docket sheet and/or an index of matters in the State Court file, are attached hereto as Exhibit "A." If this Court desires, copies of all other pleadings and orders on file with the State Court will be filed by the Debtor as an appendix.

6. Written notice of removal of this cause is being, or will be, filed with the Clerk of the State Court pursuant to 28 U.S.C. § 1452 and Bankruptcy Rule 9027.

7. A copy of this Notice of Removal, pursuant to Bankruptcy Rule 9027, is being contemporaneously served on all parties to the removed claim or cause of action by service on their counsel of record, or if none, on the party, by regular United States mail.

WHEREFORE, Debtor prays that the above-entitled action be removed from the 95th Judicial District Court, Dallas County, Texas to this Honorable Court. Debtor further prays for such other and further relief to which the Debtor may show itself justly entitled.

Dated this 9th day of June, 2010.

Respectfully Submitted,

MILLENNIUM MULTIPLE EMPLOYER WELFARE
BENEFIT PLAN

/s/ Doug Skierski

By: Peter Franklin

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*Proposed Counsel for Debtor In Possession Millennium
Multiple Employer Welfare Benefit Plan*

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Notice of Removal (without exhibits) was served on June 9, 2010, (1) upon those parties receiving notice pursuant to the Court's ECF notification system, and (2) by pre-paid, first-class United States mail upon the following:

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/s/ Doug Skierski
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